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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,623	02/04/2002	Ashok V. Joshi	0434-5261US	7569

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EXAMINER

GHAFOORIAN, ROZ

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 07/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/067,623

Applicant(s)

JOSHI, ASHOK V. *CH*

Examiner

Roz Ghafoorian

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 2-5, 7-9 and 11-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 6, 10 and 32-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4, 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 3-5,7,9,13, 17,21-31 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species C, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 8. Applicant alleges figures 11 and 14 are similar except for some structural differences in which figure 14 has and figure 11 lacks. The reason for placing figures 11 and 14 in different species was due to the applicant's brief description where they are refer to as different embodiments and as the applicant has mentioned in the response figure 14 does contain extra structure in which figure 11 is lacking. Claims 2,8,11-12, 14-16, 18-20 also relate to figures 10 or 6 which are not elected Species and hence are withdrawn from the application.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1,6,10,32 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent NO.5983130 to Phipps et al.

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Phipps teaches an iontophoretic fluid with a cationic chamber defining a volume in which to hold a cationic substance a wall of the chamber having a first passageway permitting migration there through by ions; an anionic chamber having a second passageway permitting migration there through by ions, the first and second passageway being oriented and arranged on a surface of a container to enable creation of an ion conducting path, through a cooperation body, of an electrical circuit between the cationic and anionic chamber and a first electromotive cell connected to produce an approximately square-wave current discharge over its working life and comprising first and second poles of opposite electrical sing; as well as a mini battery consisting of lithium (figure 3)

3. Claims 32-36 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No.6421561 to Morris.

Morris teaches an iontophoretic fluid with a cationic chamber defining a volume in which to hold a cationic substance a wall of the chamber having a first passageway permitting migration there through by ions; an anionic chamber having a second passageway permitting migration there through by ions, the first and second passageway being oriented and arranged on a surface of a container to enable creation of an ion conducting path, through a cooperation body, of an electrical circuit between the cationic and anionic chamber; as well as a mini battery consisting of zinc, an adhesive patch 64; a shunt resistance disposed in parallel with anion conducting path between the cationic and anionic chambers.(COL4, lines 30-40)

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4. Claims 32-36 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent NO.4292968 to Ellis.

Ellis teaches a device with a cationic and anionic chambers 22,24 and a self contained electromotive source in an electric circuit between the cationic and the anionic chambers, as well as a shunt resistance disposed in parallel with anion conducting path between the cationic and anionic chambers. (Col. 2, lines 60-65 and Col.3, lines 1-10)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1,6,10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent NO.6421561 to Morris, and further in view of US Patent NO.5983130 to Phipps et al.

Morris teaches an iontophoretic fluid with a cationic chamber defining a volume in which to hold a cationic substance a wall of the chamber having a first passageway permitting migration there through by ions; anionic chamber having a second passageway permitting migration there through by ions, the first and second passageway being oriented and arranged on a surface of a container to enable creation of an ion conducting path, through a cooperation body, of an electrical circuit between the cationic and anionic chamber as well as a mini battery consisting of zinc.

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However Morris does not teach a fist electromotive cell contracted to produce an approximately square-wave current discharge over its working life. Phipps teaches a fist electromotive cell contracted to produce an approximately square-wave current discharge over its working life.

Therefore it would have been obvious to one having ordinary skill in the art to have combined these two studies because according to Phipps using such wave current leads to a higher electrotansport delivery. (Col.16, lines 10-15)

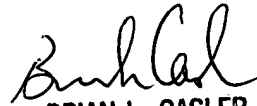
**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roz Ghafoorian whose telephone number is 703-305-2336. The examiner can normally be reached on 8:30am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703-308-3552.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

RG  
July 11, 2003

  
BRIAN L. CASLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700